

REMARKS

Claims 1-8, 22-23, 25, and 61-74 are currently pending in this application. Claims 2, 23, 25 and 74 are amended herein. New claim 75 is presented for entry. Claims 9-21, 24 and 26-60 were previously canceled without prejudice or disclaimer as to the subject matter therein. Claims 1-8, 22-23, 25, 61-74 and 75 will be pending on entry of the claim amendments and new claim.

Support for new claim 75 can be found throughout the specification as originally filed, *inter alia*, on page 5, lines 17-23; on page 29, line 15 extending to page 31, line 18; and on page 38, line 7 extending to page 39, line 11. Accordingly, Applicant submits that no new matter is introduced into the specification by way of the present amendments.

Restriction Requirement

The Restriction Requirement subjected the pending claims to restriction under 35 U.S.C. § 121 between one of the following inventions:

Group I.) Claims 1-8 and 61-70, drawn to a method for recovering plant cells which includes use of a stabilizer, classified in class 424, subclass 278.1; and

Group II.) Claims 22-23, 25 and 71-74, drawn to a method for recovering plant cells from cryopreservation which requires incubation in a medium having at least one ethylene inhibitor, oxygen radical scavenger, divalent cation or cryoprotective agent, classified in class 435, subclass 420.

In response, Applicants hereby elect the subject matter of Group I, represented by claims 1-8 and 61-70. In addition, Applicants respectfully submit that the subject matter of new claim 75 corresponds to the subject matter of elected group I, represented by claims 1-8 and 61-70. More specifically, Applicants note that pending claim 1 and new claim 75 both require removal of the cryoprotectant as a method step, and that this common claim element does not distinguish the subject matter of the two claims. Applicants further note that both claims 1 and 75 are directed to the recovery of cryopreserved plant cells that are cryopreserved in a cryoprotective agent.

Applicants also respectfully submit that stabilizers as recited in claim 1 includes within its scope ethylene inhibitors, divalent cations, and oxygen radical scavengers as recited in claim

75, and as described in the specification as originally filed. For example, the text bridging pages 12-18 under the section heading "Pretreatment" broadly describes stabilizers as encompassing divalent cations, ethylene inhibitors and oxygen radical scavengers. Applicants submit that a search of the subject matter of claim 1 would require a search that encompasses a stabilizer and a cryoprotective agent. Therefore, a search of this nature would inherently encompass the subject matter of claim 75, which claims the use of at least one ethylene inhibitor, oxygen radical scavenger, divalent cation or cryoprotective agent. Applicants respectfully submit that a search of the subject matter of group I inherently encompasses the subject matter of new claim 75, because the specification describes stabilizers as including divalent cations, ethylene inhibitors and oxygen radical scavengers.

Applicants further submit that the "removal" of the cryoprotective agent can not be construed as an absolute removal of all cryoprotective agent, but instead must be construed to encompass the removal of cryoprotective agent or presence of the cryoprotective agent at a concentration where the cryoprotective agent does not function as a cryoprotective agent or in a cryoprotective capacity. For example, one embodiment of the invention describes the transfer to, and incubation of thawed cells in, nutrient medium having a reduced concentration(s) of sucrose. *See* specification, page 38, lines 14-22. The specification further states that "[c]ells can be regrown in suitable media after levels of osmotic or vitrification agents are reduced to an acceptable level." *See* specification, page 30, lines 22-23.

Therefore, Applicants respectfully request inclusion of new claim 75 and amended claims 23, 25 and 74 in the subject matter of elected group I.

CONCLUSION

An indication of allowance of all claims is earnestly solicited. Early notification of a favorable consideration is respectfully requested.

Respectfully submitted,

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